

Attachment 1: Draft Telecommunications Facilities Ordinance

A. Purpose

1. It is the duty of the city to protect the public health, safety and welfare of all residents. The city has authority to regulate the placement, construction and modification of personal wireless service facilities in the advancement of that duty. The city recognizes the need to respond to the policies in the Telecommunications Act of 1996 and has constructed these regulations to ensure adequate provision of personal wireless services while respecting the need to protect the natural beauty, community appearance and visual quality of its historic, residential, and commercial neighborhoods. Nothing in these regulations is intended to contravene the Telecommunications Act of 1996.

B. Definitions

1. "Antenna" means one or more rods, panels, discs or similar devices used for wireless communication, which may include, but is not limited to, omni-directional antenna (whip), directional antenna (panel), and parabolic antenna (dish).
2. "Antenna Array" means a single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.
3. "Base Station" means a structure or equipment at a fixed location that enables Commission licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this chapter or any equipment associated with a tower.
4. "Collocation" means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.
5. "Commission" means the Federal Communications Commission ("FCC").
6. "Distributed Antenna System" or "DAS" means a network consisting of transceiver equipment at a central hub site to support multiple antenna locations throughout the desired coverage area.
7. "Small Cells" mean compact wireless base stations containing their own transceiver equipment and function like cells in a mobile network but provide a smaller coverage area than traditional macrocells. Small cells will meet the two parameters in subsections (a) and (b). For purposes of these definitions, volume is a measure of the exterior displacement, not the interior volume of the enclosures. Antennas or equipment concealed from public view in or behind an otherwise approved structure or concealment are not included in calculating volume.
 - (a) Small Cell Antenna: Each antenna shall be no more than three (3) cubic feet in volume.
 - (b) Small Cell Equipment: Each equipment enclosure shall be no larger than seventeen (17) cubic feet in volume. Associated conduit, mounting bracket or extension arm,

electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch may be located outside the primary equipment enclosure(s) and are not included in the calculation of equipment volume.

8. "Stealth design" means technology that minimizes the visual impact of wireless communications facilities by camouflaging, disguising, screening, and/or blending into the surrounding environment. Examples of stealth design include but are not limited to facilities disguised as trees, flagpoles, bell towers, and architecturally screened roof-mounted antennas.
9. "Temporary Antenna Tower" means an antenna tower established for the purpose of providing telecommunications services on a temporary basis for a special event or to temporarily replace an antenna tower while it is being repaired.
10. "Tower" means any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.
11. "Tower Height" means the vertical distance measured from the base of the tower structure at grade to the highest point of the structure including the antenna.
12. "Transmission Equipment" means equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
13. "Utility Support Structure" means utility poles or utility towers supporting electrical, telephone, cable or other similar facilities; street light standards; pedestrian light standards; traffic light structures; traffic sign structures; or water towers.
14. "Wireless Communication Facilities" or "WCF" means a staffed or unstaffed facility or location for the transmission and/or reception of radio frequency (RF) signals or other wireless communications or other signals for commercial communications purposes, typically consisting of one or more antennas or group of antennas, a tower or attachment support structure, transmission cables and other transmission equipment, and an equipment enclosure or cabinets.

C. Applicability

1. The wireless communication facility regulations of this section apply to all personal wireless service facilities, except that those associated solely with the following are exempt:
 - a. Public safety services (e.g. police and fire);
 - b. Amateur radio stations;
 - c. Land mobile radio; and

- d. Radio and television.
2. The public lands and agencies exemption from compliance with zoning in state law does not apply to private entities utilizing publicly owned lands.

D. Prohibited Locations and Support Structures Types

1. The following locations and support structures are not permitted:
 - a. Personal wireless services facilities in the public right-of-way or on unzoned land; and
 - b. Lattice and guyed tower support structures for personal wireless services.

E. Permitted Locations

1. Co-Location on Nonconforming Existing Support Structures: Support structures for personal wireless services in existence on *[date that this ordinance is enacted]* that do not comply with the regulations of this section are deemed nonconforming structures.
2. Co-Location on Legal Existing Support Structures: New personal wireless services co-located on support structures in existence on *[date that this ordinance is enacted]* are permitted in all zoning districts, subject to compliance with other applicable standards of this section.
3. New Roof-Mounted or Structure-Mounted Support Structures: New personal wireless service facilities located on roof-mounted or structure-mounted support structures are permitted in all zoning districts, subject to compliance with other applicable standards of this section.
4. New Ground-Mounted Support Structures: New ground-mounted support structures for personal wireless service facilities are permitted in IG, IBP, ITP, and CC zoning districts, subject to compliance with other applicable standards of the section.

- F. Missoula has a section here regarding historic district overlay zones. Any need to include language regarding this? We DO have a historic district downtown – do we really want ANY support structures or antennas there? If we do, make it very strict to get them in?

G. Development Standards

1. Schedule: The following standards apply to wireless communication facility supports:

Support Type	Permitted Location	Support Structure Height	Antenna Height	Setback	Buffering & Screening	Stealth Design
Existing support structures	Existing location	Existing height	Existing height	Existing setback	N/A	N/A
Roof-mounted support structure	All zoning districts	Not to exceed the height of the tallest element of the building to which it is attached	Not to exceed the building's tallest element; or 10 ft. above the building's tallest element if total antenna surface area does not	N/A	Not required	Required

			exceed 10 sq. ft.			
Structure-mounted support structure	All zoning districts	Support structure + antenna may not exceed 8 ft., not including host structure height	Included in height of support structure	N/A	Not required	Required
Ground-mounted support structure	IG, IBP, ITP	Support structure + antenna may not exceed the zoning district height limit	Included in height of support structure	From property line: 50% of structure height for support; 10 ft. for equipment enclosure	Required	Required
	CC	Support Structure + antenna together may not exceed 30 ft. or height of existing utility and telephone poles within 300 ft. of the proposed site	Included in height of support structure	From property line: 50% of structure height for support; 10 ft. for equipment enclosure	Required	Required

2. Stealth Design

- a. Roof-mounted Facilities: Facilities mounted on the roof of buildings must be visually incorporated into the building or background by the use of architectural elements, color, screening or other methods. Antennas not exceeding 10 square feet in total surface area atop a single support structure are not required to meet this requirement.
- b. Structure-mounted Support Structure:
 - i. Wireless communication structures mounted on other structures not constructed for the primary purpose of supporting wireless communications services must be either fully concealed within the host structure or camouflaged to appear to be an integral part of the host structure.
 - ii. The surface area of the antenna may not exceed 10 square feet in total antenna surface area. The antenna must be either fully concealed within the support structure or camouflaged to appear to be an integrated part of the structure. An antenna that is not flush mounted on the side of the structure must be set back from all sides of the structure to which it is attached and camouflaged or disguised.

- c. Ground-mounted Equipment Enclosures: Above-ground equipment enclosures that are used in or adjacent to residential zones must be designed with exterior façade materials of masonry, stucco, or beveled siding and have rooflines of a minimum 4/12 pitch with roofing materials generally used in residential construction.
- H. Lighting: Support structures may not be artificially illuminated except as required by FAA regulations. All other outdoor lighting must meet the following standards:
 - a. Lighting used to illuminate driving and parking areas must be arranged, designed or shielded so that all light is confined to the subject property.
 - b. Exterior building lighting must be arranged, designed, or shielded so that direct light falls upon the surface of the structure to be illuminated and within the subject property boundary.
 - c. Lighting must be arranged so as to deflect lighting down and away from any residential district and may not detract from driver visibility on streets. Lighting may not cause glare on any property used or zoned for residential purposes.
 - d. All lighting, except for security purposes, must be turned off between 11:00 p.m. and 6:00 a.m.
- I. Signage: Identification and contact information is permitted on one wall- or fence-mounted sign not exceeding 4 square feet in area per provider per site. Other signage may not be located on wireless facilities, unless required by the FCC or FAA.
- J. Code Compliance: All facilities shall at all times comply with all applicable federal, State and local building codes, electrical codes, fire codes and any other code related to public health and safety.
- K. Safety: The structural design for all support structures greater than 10 feet in height must be certified by a professional structural engineer licensed to practice in the State of Montana. A building permit, if required by the building department, must be obtained prior to the installation of a wireless communication facility.
- L. Residential Zone Setback
 - a. Antenna towers shall be separated from the property line of any adjacent property zoned RS, RM, RR1, RR2, or MUR at least a distance equal to the height of the antenna tower, and shall be separated from all other adjacent property lines at least a distance equal to one-half (1/2) the height of the antenna tower.
- M. Noise Reduction
 - 1. In any residential zoning district (RS, RM, RR1, RR2, MUR) and in all other zoning districts when adjacent property is zoned residential (RS, RM, RR1, RR2, MUR) or occupied by a dwelling, hospital, school, library, or nursing home or similar use, noise generating equipment shall be sound-buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to forty five decibels (45 dB).

N. Submittal Requirements

1. A permit application for a wireless communication facility must include:
 - a. Should we simply require them to go through a site plan review process? Should we create a new application process/app that is routed to appropriate departments?

O. Modification and Removal

1. Modification of Nonconforming Ground-mounted Support Structures: Nonconforming ground-mounted support structures may be modified or demolished and rebuilt, provided that all of the following conditions are met:
 - a. The ground-mounted support structure is being modified or demolished and rebuilt for the sole purpose of accommodating additional antenna comparable or less in weight, size, and surface area to the existing antenna existing prior to the demolition or modification;
 - b. The support structure is not increased in height; and
 - c. Any additional equipment enclosures that may be required meet applicable setback and visual impact mitigation standards.
2. Removal of Personal Wireless Service Facilities
 - a. Providers must notify the city in writing when a personal wireless service facility is no longer being utilized. Any facilities that are not utilized for the provision of personal wireless services for a continuous period of 6 months or more will be considered abandoned. All abandoned facilities must be removed within 6 months of the cessation of operations. If a facility is not removed within 6 months, the city is authorized to remove the facility at the facility owner's or land owner's expense.
 - b. Where multiple users share a support structure, the nonoperational antenna and equipment enclosure must be removed. Any necessary shared facilities may be retained until all users have terminated the utilization of the support structure.

P. Third Part Review: Adequate review of applications, particularly for new ground-mounted support structures, may require the city to retain consultants or other third party assistance to review an application. In such an event, the applicant must reimburse the city for the reasonable actual costs incurred by the city for retention of consultants or other third parties prior to issuance of a building or zoning compliance permit. The city must provide a written scope and cost proposal to the provider for approval prior to the city entering into an agreement with a third party.

Q. Exceptions

1. Applicability: In the event that standards of this section cannot be met by an applicant, and there exists no feasible alternative to providing adequate service by any provider for a particular geographic area, the applicant may apply for conditional use approval in accordance with 9-9-6.A.
2. Review and Submittal Requirements: Prior to submitting an application for conditional use approval in accordance with 9-9-6.A, the applicant must request in writing a pre-application

conference with the Planning Department. The purpose of the pre-application conference is to acquaint the participants with the applicable requirements of this section. A conditional use application must must provide documentation demonstrating evidence of all the following:

- a. wireless telecommunications services by any provider are not available within a specific geographic area, and cannot be made available unless a new support structure is built or erected in a manner or location contrary to the standards of this section;
 - b. location on buildings or other structures is not possible because:
 - i. no existing or proposed structures adequate to support the proposed antenna are located within the geographic area required to meet the applicant's engineering and service requirements; or
 - ii. property owners or owners of existing structures for smaller scale installations are unwilling to accommodate the applicant's needs; or
 - iii. the applicant demonstrates that there are other factual and verifiable limiting factors that render rooftops and other sites or monuments unsuitable for location of structural supports; and
 - c. co-location on existing support structures is not possible because:
 - i. existing or approved support structures are not of sufficient height to meet the applicant's engineering and service requirements and a combination of smaller scale facilities will not enable adequate service delivery; or
 - ii. existing or approved support structures do not have sufficient structural strength to support the proposed antenna and related equipment and cannot be reinforced to provide sufficient structural strength; or
 - iii. the proposed antenna would cause electromagnetic interference with antenna on existing or approved support structures, or the antenna on existing or approved support structures would cause interference with the proposed antenna; or
 - iv. the applicant demonstrates that there are other factual and verifiable limiting factors that render existing or approved structural supports for wireless facilities unsuitable for co-location.
- I. Affirmative Duty to Keep City Informed: All telecommunications services providers having facilities in the jurisdiction of the City shall file with the Zoning Administrator an annual written statement verifying continued use of each of their facilities in the City's jurisdiction as well as continued compliance with the state and federal agency regulations. All telecommunications service providers having telecommunications facilities in the jurisdiction of the City shall be required to report in writing to the Zoning Administrator any change in the status of their operations. Change in status shall include, but is not limited to, the following:
- a. Change in or loss of license from the FCC to operate.
 - b. Receipt of notice of failure to comply with the regulations of any other authority having jurisdiction over the business or facility.
 - c. Change in ownership of the company that owns the telecommunications facilities or that provides telecommunications services.

- d. Loss or termination of lease with the property owner or the owner of the telecommunications facilities.
- e. Abandonment of a facility or non-use of a facility for a period of six (6) months or longer.